

NEWINGTON TOWN PLAN AND ZONING COMMISSION

Regular Meeting

March 9, 2022

Chairman Domenic Pane called the regular Zoom meeting of the Newington Town Plan and Zoning Commission to order at 7:00 p.m.

- I. **PLEDGE OF ALLEGANCE**
- II. **ROLL CALL AND SEATING OF ALTERNATES**

Commissioners Present

Chairman Domenic Pane
Commissioner Anthony Claffey
Commissioners Bryan Haggerty
Commissioner Garret Havens
Commissioner David Lenares
Commissioner Jonathan Trister
Commissioner Stephen Woods
Commissioner Hyman Braverman-A
Commissioner Stuart Dzod-A
Commissioner Thomas Gill-A

Commissioners Absent

None

Staff Present

Renata Bertotti, Town Planner
Erik Hinckley, Asst. Town Planner/ZEO

- III. **APPROVAL OF AGENDA**

Chairman Pane: According to the revised agenda, we will add Petition 16-22 under New Business.

- IV. **PUBLIC PARTICIPATION** (For items not listed on the agenda; speakers limited to two minutes.)

None

- V. **ZONING ENFORCEMENT OFFICER REPORT**

Erik Hinckley: You can see what I have gotten done here recently, gotten some of the big signage items removed, I think they will be coming in for a temporary banner permit and then just some other general things, most of them have been resolved, although there is a couple outstanding ones I'm still working on.

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VI. REMARKS BY COMMISSIONERS

None

VII. PUBLIC HEARING:

- A. Petition 05-22 Zoning Regulation Amendment (Sec. 3.19) to modify zoning regulations pertaining to residential buildings in the PD Zone regarding hiring of third-party consultants at applicant's expense, requiring a direct site access to Berlin Turnpike, requiring a traffic impact analysis and reducing building height to 2 (two) stories, applicant and contact, Igor Bochenkov.

Chairman Pane: Before I turn it over to the applicant, I received communications concerning this application. I received an e-mail from Igor on February 28th, and I would like to read it into the record. "Dear Domenic, as you know, I am a Newington resident who put forward the text amendment earlier this month. I understand that we have similar goals in promoting the best interests of Newington and in that light I would like to see if it makes sense to informally have a cup of coffee later this week to have a brief discussion. Let me know if you are open to that idea."

I sent him back an e-mail that stated, "Igor, unfortunately there is a petition in front of our board, and it would be inappropriate to meet."

A little bit after that it was brought to my attention that the applicant started a social media page called Stop Culver Street Apartments, and on there he posted the following: Attached please find Town Planner's comments on our proposed text amendment. As suspected, they are against it, especially the proposed change reference number of stories. TPZ Commission Chairman Pane is developing the parcel he owns at 277 Pane road, and his proposed development will also have four story apartment buildings. Yes, another one, so of course he is not going to allow our changes to pass because it would interfere with him profiting from his insider position. Corruption at its finest."

I find the applicant's comments extremely appalling and disgusting and not only does it insult me, but it insults every member of the Commission, and it insults the staff. This board, as all of you commissioners know, has been a bi-partisan group, we don't bring politics in, and so I find it offending. I have no personal conflict at all with this application, but because there has been a target put on my head, I have decided to recuse myself from sitting on this application, so at this time I would ask Vice-Chairman Claffey if he could run the meeting. Thank you,.

Chairman Domenic Pane recused himself from Petition 05-22 and Commissioner Gill was seated in his place.

Vice-Chairman Claffey: At this time I would like to let the applicant present his presentation to the Commissioners, and explain what is going on, and I would leave the floor to Mr. Bochenkov.

Igor Bochenkov, 20 Cobblestone: I am thankful to testify today about a matter important to me, to my family, my neighbors, other residents and tax payers and voters of Newington as well as the Town officials of Newington. I don't make presentations as often as Mr. Sweeney or Mr. Bongiovanni, so please bear with me for the next twenty minutes.

I want to see the town flourish into the future. I do not think it is a coincidence that the Town has established a reputation that has been built over many years as a great place to raise a family and live, with good school systems, access to cultural interests, high quality of life. It is with that in mind that I chose to apply for and promote this text amendment so that we can take every step to preserve this attractive offering for ourselves as well as my daughter and others.

Before I get into the specifics of the actual text amendment, let me give you a little bit of context. There are people who have lived in this town for over eighty years, people have established roots in this town, and have a desire to keep the status quo, I think we can all agree that we need to be flexible and allow change to occur, however it should not be change for the sake of change. It should not be change that has a single purpose to the false need to create the grand list at all costs. It should be a good change first and foremost that protects our own citizens and when there is a difficult choice to make the officials should not only be, not only at election time, but at all times, when the public has good memories and expectations that their interests will always come first. In the business field, we call this fiduciary relationships. You have the same type of fiduciary relationship and responsibility to the residents. We should also be clear that in today's society there is a constant pressure in increased profits, increased budgets, reduce shortfalls and deficits. However, the financial goals and motives don't come first, and should not drive all municipal decisions. The Grand List is not the end all be all list. It certainly is a factor in making decisions including zoning decisions, there are state requirements that must be always observed. Sometimes those requirements, for example, when the standard apartment of housing is, provided grants on the propose Culver Street. Along with those grants are certain provisions which must be in fact met. We would like to see those provisions and make a freedom of information request to do so. It would have been nice to get them on the table in the interest of full transparency. My motives are pure, my motives are simple, how to preserve the quality of life in Newington, to enjoy the benefits of the right of enjoyment of my real estate in a town where I raise my family. The town officials have their own motives too, to listen to the people who put them in the office and to make decisions according to the governing documents. The regulations and town charter, our constitution if you will. What of the motives of the developer, I ask you this question now, in part because not once have I heard it mentioned out loud, I submit to you that the primary motive for this developer, located 499 miles away, from this location is to make money. Let me add, on the surface I do not fault them for wanting to make money and a developer has a right to do so, however I do have a right and we have a right to ask questions and to determine if there is an alignment with the Town of Newington, and if there is, we have the right to provide input on how and when that project should move forward. That is why we are here today, to provide input going forward.

I have heard the town (inaudible) in which I, and many others feel would help the town to achieve it's (inaudible) including the POCD and the respect and responsibility you have to each one of us. Immediately before I get into the text amendment, number one, I will share a quote from the current president of Ukraine, Zelenskyy, from his inaugural address in 2009, "I do not want my picture in your offices, the president is not an icon, and should not be a portrait. Have your kids photos instead, and look at them each time you make a decision."

Text amendment regarding the consultant; in a nutshell, we don't know everything, in a nutshell the developer doesn't know everything. This is why we require experts, the Town of Newington historically hires experts, therefore, there is no debate here. Let me ask one question, who gets to chose the experts? How many experts should be selected? Who should pay for the experts? In any discipline, how many experts should be chosen, or is it even wise to hire one once. First, let me submit, the answer is probably yes. The TPZ is uniquely qualified to answer these questions. Can the process become better? Yes. Allow the TPZ to be conservative in its approach to require that experts be hired, certainly on the more complex proposals. They have institutional knowledge over time, long standing relationships throughout this state and can greatly benefit from uncovering and addressing nuances of each and every project. Lastly, when there are conflicts of interest, hire two experts that can balance the interests. In a project of millions of dollars, it seems to me that this is money well spent. The Town Planner made a comment that this petition was about distrust of your professional capabilities. This statement is unwarranted. One person can't know everything, one committee doesn't have the depth of knowledge about ground work chemistry, the study of reptiles, recently hired by the tow herpetologist, who was hired to look at animal life on the proposed development or more approximate to a town like Glastonbury which

is a common discussion in their building affairs. It's not personal, it simply makes sense to have experts to have decisions made on a greater degree of certainty, it's due diligence, it's common sense. I will point out that a traffic expert in this case performed three separate studies. Why? Still not sure, but I can tell you that his testimony stated that DOT data from 2011 and 2016 was used. I can tell you pandemic traffic patterns were used that does not make sense. I can tell you there were numerical errors on the spread sheet she presented during the TPZ meeting. When you can do the job, and a more comprehensive job, it is too important not to hire enough experts or the right experts.

Access to the Berlin Turnpike, first, what is the Berlin Turnpike? As you know, it's a four or five lane major thoroughfare that carries between eighty and ninety thousand cars a day. It once was a major thoroughway between Boston, Hartford and New York. While it provides significant commercial choices like Wal-Mart, Home Depot and many others, it also translates to congestion, delays, loud noise, pollution, and other headaches. The original authors of our zoning regulations, in their wisdom were looking to protect the residents of Newington. Not only that, but the POCD speaks of the residents as the one main tenants of the town. It the commercial interests to be connected to the Berlin Turnpike as a way to self regulate, to protect quality of life, and to separate the commercial from non-commercial. Let's be straight forward for a minute. Ask yourself right now, why would you believe the requirement to have a commercial interest to be connected to the Berlin Turnpike, or roads intersecting? In other words, what were they thinking, and why would you think it has been on the books for several decades and stood the test of time? If you listen to the Town Planner, you may believe it has something to do with affordable housing, nonsense. It has nothing to do with affordable housing, affordable housing can be placed anywhere. If you listen to the attorneys for the developer, let me repeat, the attorneys for the developer, the original regulation was poorly written, unintelligible, and only frustrated residential development opportunities. I do not think it is appropriate to insult the original authors of the regulations of Newington, do you? Do you think it is true that original authors were attempting to restrict growth and development in general? Nonsense. Furthermore, if the statements were true, how is it that the town has grown to over 30,000 residents. The comments are false and self serving. Just ask yourself what is driving these comments, just follow the money, therefore I believe as many believe that we should not undermine exactly what the authors had intended. If it has worked for decades, and it would be a mistake, a grievous mistake to uproot it. You do not have to live with the consequences, but we do.

The zoning, it matters a lot, what the original statutes are, referring to the original legislation of lending practice, well I think we should set a very high mark for changing long standing regulations simply because you can. You are looking through the prism of money, which is often short lived. I am looking through the prism of family, neighbors, high quality of life, and I invite you to my side of the side, it's the right choice.

Newington is predominately residential, again the importance for most people is the quality of life they wish to pursue, the POCD states, as a primary goal, the extension of single family homes. This goal is one and long standing and high lighted. When we looked at the height of buildings, where were we trying to preserve quality of live drivers, one such driver is open space and less density, limited building height is a way to preserve what we, the residents want, not what the developer wants. So now we have a situation where zoning was changed, the developer got that, now they want to press onward and change in other commercial districts. It flies in the face of what we have had and what we want. The town has argued the reduction in building height is environmentally unfriendly, that is nonsense as well The opposite is true. Ask any unbiased person that question. The developer says that a limit on building height would limit quote, unquote, modern housing. That also is nonsense. What does building height have to do with building architecture? I can show you thousands of designs in architectural renderings to show what modern design is possible with two story building height, In fact, just look at my development, Cobblestone, which is two stories. The developer says it may become financially unfeasible, is that true, no, perhaps his profit will not be forty million dollars, but maybe thirty-five. Are those the numbers, we

don't know, no one has told us. We have a right to know the profitability forecast of the developer which is 499 miles away, and wants to change my family's quality of life.

In summary, this text amendment, along with many others makes sense and are in alignment with the long standing town regulations. I would advocate strongly that my text amendment protect the residents, taxpayers and voters of this town, and you have the responsibility to us, first and foremost, and outsiders should not prioritize and recognize the priority each and every time. Real estates experts have told us as recently as last week, the real estate sales in this part of town are sky rocketing. Sales are sky rocketing. I would like to be careful about unintended consequences. Finally I would like to remind each one of you that a text amendment proposal can be taken separately, it should not be viewed as an all proposition. I think you for your time and consideration.

Vice-Chairman: Thank you for your presentation. At this time I would let the Town of Newington Planner fill us in on her, or Erik's town report for this 05-22.

Renata Bertotti: Thank you. Let's just set the stage first. I too learned, after I issued my memo, and by the way, when I was preparing this staff report, I wanted to keep an open mind and I wanted to keep an assumption that this application was filed from more of a zoning amendment regulation rather than a provision for a specific development, which is inappropriate and that is how I accepted it, ad how I wrote my memo and then the following day, while I didn't know, I also received from a friend's mother, an e-mail showing that there was some connection between an attempt to combat the proposed development, so what I need to tell you as a Commission now is that when reviewing our zoning regulations changes, zoning regulation proposals, what you are looking at is the proposals that affect the entire zoning district, so you have to think first, about the entire PD zoning district. You have to separate yourself from thinking about any particular development or any particular location and any particular event, any particular pending or non-pending items that we may have going on right now. So, please try to concentrate on the entire PD District. I will ask Erik to display that map for you right now.

The second thing that you must understand is that you, as a Commission, when you are acting on the zoning regulation amendment, act in your legislative capacity. That is pretty much the highest level of discretion that you have when you are acting on anything. You are changing the rules in the town, and you are going to be changing rules in, if you proceed, with these proposed changes, you will be changing rules that will be affecting significant portions of the town in a pretty significant way in my opinion.

So as you can see, if you read my memo, I cannot support this, for a number of things, and I have to establish a record now, so I will go into some detail as to specifically why I cannot support this. There are some technical things. Granted, this application was submitted by a resident, not a land use lawyer, so the write up of it was a little clunky, and I understand that, but if you were to adopt this regulation just the way that it is written, it would create a number of problems because of how it is numbered and how the references were a little off, and there are details that are missing. I mentioned in my memo that there is a numbering that we already have that regulates Drive through restaurants in the PD Zone, there is a language with regards to hiring outside consultants, now the state statutes are very specific and detailed about how, if the town is to have language like that in this regulation, that there is really detailed language about how that money needs to be handled. It needs to be a separate account, that account has to be handled a certain way once somebody, there is a certain kind of paperwork that has to be submitted, and then we have to return that money, within a certain amount of days within which we receive this request. All of those details should really be included in the regulation, or at least the portion of the statutes should be referenced otherwise it is vague and hypothetically speaking, somebody could be, we could be sitting on somebody's money like forever, if there are no clear rules on that. So there are some technical things that are like that.

More importantly however, as proposed, this provision applies to all uses seeking a special permit in the PD Zone. I'm not speaking about, and I'm going to separate it like I did in my memo, so I'm going to

Speak about hiring of certified consultants. This language, if adopted, could you show the portion of Fenn and Cedar Street, everything in red is the PD Zone. We have this section here, this is Cedar and Alumni, and the railroad, and then there is another section by Hartford Road also.

The consultant language, if that was to be adopted it would apply to all special permits in the PD Zone, and I do not understand why would we have this particular requirement, this higher threshold applicable to a special permit just for this one zone. Why does higher level of caution, why this higher level of expense to our, by the way, by area is covered and it generates the highest, the biggest commercial district in town. So any drive through restaurant, any retail store, any service shop, like anything, that requires a special permit would be subject to this regulation. Now the way that I read this, the way that it is written, what would happen, practically speaking is that an application would come into our office, and instead of going through like normal process which we are trying to streamline and expedite as much as we can, like the whole process, to make everything sort of streamlined and more efficient, what would first need to happen is the applicant would first have to go to the Commission so that the Commission would have to vote, and make a determination whether or not they would have to hire this third party consultant, on pretty much every application for special permit. So, I don't see that is necessary. I feel that that is excessive. Some other communities that have this requirement to have third party consultants, or have allowances for third party consultants in their regulations, have it in the beginning of the zoning regulations in sections that deal with pre-applications, but it's by staff. Those are generally places that tend to be smaller. I saw it in Hebron, that would have perhaps as many staff as we do. So, they have this thing where an applicant meets with staff on the pre-application, and then staff would say, you need to hire a consultant. The Commission could consider that maybe if you want, it should definitely be in a different section of the regulations. I still think it is not worth it for the Town of Newington and I definitely think it should not be in this section and I definitely think it should not be applicable only to the PD District, if we have this. I do believe it should not have the arbitrary criteria.

I particularly caution you in regards to using a position on the application by town residents. First of all, you can't limit public participation to in town and out of town residents. You can also not favor a position over support on anything. If you remember, from the training, some elements of what you must exercise in all of the applications are these elements of basic fairness, so you have to weigh equally the support and opposition on anything, so you can't allow a greater appreciation to a position than you would to support anything, and lastly, a position is not a position for a valid criteria or special permits. Even in that sense, it kind of doesn't fit in this realm of why would it be a valid criteria to decide whether or not that should be something that you can use to decide on whether or not to hire a third party consultant.

Like the applicant says, I do obviously object, this also on the fact that this does imply certain level of distrust of the staff, and that put us in a difficult position because of a certain perception that it creates when you have these kind of regulations that both developers and the public can demand certain things of us, and believe me, we have a hard enough time as it is, between engineering, the Fire Marshal, the Building Official, they challenge daily our interpretation of rules, our judgement, our time limits, everything that we do, we are constantly challenged, both from the developers and from the public, so having some kind of rule that further proves that even our own regulatory body do not believe that we are competent enough, just further diminishes our ability to stand up for ourselves.

Moving on to non-conformity, so the location part, we had a long discussion about that at the meeting when we removed the location requirement. We recently revised the regulations to remove that, and at that discussion, we showed the map, we discussed the element of why this way to be, why this regulation was to be removed to begin with. We discussed areas in the PD Zone that were not near the Berlin Turnpike, we also have areas where, we discussed reasons why this rule existed to begin with, and at least in my opinion, and I think there were other people that agreed with that, the reason for the location approval was to control traffic on residential roads, and it is not an effective way to control traffic, not when you have a use that is a special permit use, and a special permit use you can control with your traffic impact analysis statement through the special permit process you review anyway. So the

Commission did remove that location requirement, and that was all the reasoning behind the recent decision.

We also have a provision in our affordable housing plan that recommends that area for future mixed use development and residential development be located along other areas, along the Berlin Turnpike and Berlin Turnpike adjacent areas. The, we have residential developments that are approved, the Dakota Development, the Anthony property now, which is on Cedar Street, that removing this requirement would probably, no it wouldn't, and then the next thing is the height of the buildings, that is a problem with creating non-conforming sites. Harvest Village is one of the existing properties that, if this became a case, if the Commission adopts this, Harvest Village would become one of the properties that becomes non-conforming, because it is three stories. Then all of the recent developments that we have approved, including 3333 Berlin Turnpike, the Anthony property which is the old National Welding site, then the Dakota property recently approved property on Masselli and Pane Road, all of that would become non-conforming. Non-conforming properties have legal problems going forward to expand, to get re-financing, it is just very complex issue to create non-conforming issues going forward.

Now I also want to talk about this reduction of stories in a little bit different way too. I did say that shorter buildings, reducing the building height is environmentally unfriendly. It promotes sprawl, it demands more buildings to make things economically feasible to create the same number of units. The other issue with this is that one of the bigger focus in Newington is the promotion of this aging in place. Of all units imaginable, the two story properties are the worse for aging in place. Single stories too are not like the best for aging in place because we are not the kind of town, and we should do some economic studies at some point, but the single family homes require maintenance unless you live in an age restricted community where you then have to pay HOA. For paying HOA, you have to have some certain kind of income, and I'm not sure, reading our documents, reading our POCD, reading our affordable housing plan, it seems to me that we may not have that kind of aging situation. There may be more like middle to lower class aging group. So for some kind of aging situation, what we want are building developments actually. That is another thing that I thought after I wrote this memo to perhaps bring up.

I also mentioned that reduction is likely to result in outpricing of multi-family residential developments from really the only zoning district that practically allows multi-family residential developments in town, because we have a couple of other districts, but practically they're undeliverable. They are either restricted by location or by the density limitation or by the fact that the lots are so small, but the acreage is required to be so big, that there is no suitable lots to allow multi-family housing.

So I think, in closing, and I'm sorry that I went this long, but I feel this is an important amendment, and I had to establish what was exactly in this. My suggested reasons to not allow this zoning regulation amendment are: that it conflicts with a number of sections of the Plan of Conservation and Development, so physically their objective of Chapter 9, economic development promotes appropriate economic development to meet the community needs, economic development strategy 1. Continue to promote appropriate economic development in Newington in order to grow the grand list and provide net tax revenues for the town. And I will just address this, it's not all about money. It really isn't all about money. When we are talking about change, it is understanding that change means also that people perhaps would like to live in a different kind of environment today, and the reason why we are seeing these kind of market pressures today is perhaps a response to that change; 2. To continue to support existing businesses and industries and continue efforts to keep them in Newington; 3. Continue efforts to attract new businesses and promote the attractiveness of Newington both economically and physically in order to attract economic development; increase the focus on economic opportunity areas for appropriate re-use and re-development using commercial properties and take advantage of good locations. The overall goals of the chapter ten, residential development, provide housing options for a variety of housing types, sizes, ages, income growth for stable neighborhoods, protect and preserve the quality of existing housing stock from neglect; incompatible neighboring uses and disinvestment.; maintain quality residential neighborhoods by avoiding the intrusion of non-compatible uses and/or non-residential traffic. Conflict

with the Town of Newington affordable housing plan which states that the town should focus future residential development in the area of the Berlin Turnpike among other areas, and if adopted would create issues and a number of non-conforming location structure and improve serious and unnecessary hardships on the residential and commercial uses.

So that is it, thank you.

Vice-Chairman Claffey: Thank you Renata, I have two questions of you, one is a clarification in your staff report memo, on the second page, third page, where under staff comments I had a question just to clarify when you wrote about the affordable housing plan, is that the Newington affordable housing plan, and the secondly I wanted to know what the CRCOG report came back for this proposed amendment, and as everyone knows, either listening on the call or who might be listening to this in a future time, the CRCOG is nothing new for something like this. We do it on very simple things and we do it on complex things. Please explain how that came back from them?

Renata Bertotti: So my comment was on our affordable housing plan, the CRCOG report referenced our affordable housing plan, but also referenced and I will read it under the public testimony but, I can read it now, I can introduce this report under a number of ways but it also referenced another number of regional plans so if you want I can read it now.

Renata Bertotti: My comment, my comment in my memo, was referring to our town affordable housing plan. The report was in regards to this proposed amendment and is addressed to the Commissioners, and it reads: "The staff of the regional Planning Commission of the Capitol Region Council or Governments has reviewed this zoning referral and finds no conflict with the concerns of neighboring towns. However, the proposal to limit building heights of residential developments in Newington's Planned Development districts discourages housing near major transit facilities and therefore is in direct conflict with the policy and goals of CRCOG's Regional POCD." So CRCOG has it's own POCD plan. "Further reducing building heights and additionally limiting the location of multi-family housing in the Planned Development District also generally conflicts with CRCOG's policy to increase housing choice by making it less developmentally feasible to provide a greater diversity of housing types and costs available in a community. Additionally this proposal conflicts with the Town's own recently adopted Affordable Housing Plan, which states that the Town should focus on areas in proximity to CTfastrak stations, the future train station; and the Berlin Turnpike for future residential and mixed-use development."

Vice-Chairman Claffey: Thank you. I don't have any, I think you hit in your report most and all of the concerns that you and Erik have found that would help or hinder our town. I want to open this up for discussion, Commissioners, any questions for either the applicant or Renata, and one of my questions to Renata is about the non-conformity, I mean, and how is the intent of our regulations not to make more, non-conformity, and over the six years that I have been part of this Commission, we've had to change things so that we get more conformity because of the hardships that a non-conformity lot has against our zoning laws, so you touched on it a little like with Harvest Village, is there any others as a whole as we look at this and I say that we as a Commission have to look at the whole town, as you said, not as what has transpired of late, but outside of some of the ones that you have mentioned, like North Mountain Road area, Connecticut Avenue, where there is a PD Zone, that is a PD Zone that some people forget about and how that could hinder that area, if there are any. If not, you can answer that and then I'll open it to the Commissioners.

Renata Bertotti: Just to be clear, if this amendment was adopted as it is proposed, the only place that would become non-conforming are places that are either existing, approved, or pending applications for residential development that is higher than two stories. So Harvest Village is an existing, and then we

have recently approved a bunch as I listed, and there is one application that is pending and if it gets approved then that is another one, but altogether when you add those up, we are talking like 1,000 residential units.

Vice-Chairman Claffey: Are there any Commissioners who may have questions for either the applicant or the Town Planner?

Commissioner Havens: To the Town Planner: if this was to get passed, with the reduction of the height of buildings to two story, how would that negatively affect the areas that we have already approved? Would it be retroactive that they would have to reconfigure their plans, or would they still be allowed to be constructed, but then end up being non-conforming?

Renata Bertotti: They would be allowed to, it would not retroactively be required of them to go down to two stories, they would be allowed to remain as approved. This would also not impact any pending application, and I want to make that crystal clear. For anybody who believes that somehow changing rules today will affect pending applications, that is false. I am not, if this pending application does not get approved, then you know, that is a whole different story. However, applications that I submitted and the date that they are submitted, those are the rules that apply, but what happens is when something is legally non-conforming what zoning laws say is that you essentially the town discourages them from existing in infinity. So there are, are potential issues with financing such properties, there are actually problems to such nature that state statute have been created to protect non-conforming uses from town expelling them, and making them non-existent. The towns historically have tried to aggressively expel uses that they found that they did not want. So that is what is so concerning with this. It's best when, it's best not to create non-conformity.

Commissioner Trister: Just sort of a follow up on what you just said, Renata, in regards to the non-conforming part. So basically what you are saying is that there is a state statute that sort of prohibits the action to be taken against properties that would be non-conforming, which was my concern with the two story changes, how that would affect them, but actually, looking backwards, what you said in your staff report looking forward, the change to two story and you mentioned it, would effectively prohibit multi-family housing in town. Could you elaborate a little more on that please?

Renata Bertotti: So, the way we have our zoning district structured, and this is really what we should discuss under more comprehensive planning sort of conversation, we have, the only zoning district that is practically allowing multi-family homes is the PD Zone. We have maybe two or three other districts that allow multi-family housing, but they are very, they are impossible actually either through the, we have the TODD Zone which involves this complex procedure in compiling parcels together and is really an intricate that, public-private partnerships that are so complex to create that, whether that happens or not, is questionable. Then we have another zoning district which is such low density that for years and years and years I think that for fifteen, twenty years, nothing has happened there because the market cannot support that amount of low density. We also allow a bit of multi-family in the R-12 Zone, but then we require a minimum parcel of ten acres, but in that zoning district we don't have a parcel that is that big. So, we allow it on the books, in a couple of zoning districts, but it really is not realistic. So the PD Zone is actually the only zone that allows multi-family housing. If we lose this, we will reduce the density so far down that I think we really will end up out zoning it, and again, I think this conversation is more for a Planning kind of conversation, we should have a map and a study and that kind of like a sit down session.

Commissioner Trister: So I guess my point is, if we were to adopt this, and just the part about two stories, it would really hinder our ability to meet our affordable housing goal, correct?

Renata Bertotti: Yes.

Vice-Chairman Claffey: Thank you Renata, for the lengthy and informative presentation. It had both sides of the story, and if any of the Commissioners have any concerns, for discussion. When the discussion is done, I want to be done as a core group, and then we will move into the public participation part of this for the for's and against, etc. I just want to get the discussion out of the way by us. I'm following the procedures, and I don't want to come back and open a discussion, and then sit with rebuttal for four hours, that's why I did this, no different than before, just a little more for the Commissioners to discuss.

Commissioner Trister: My comment was that I wanted to say thank you for Mr. Bochenkov for putting this together and bringing this forward. I know it has been a contentious issue and I know there has been a lot of back and forth, I was not, I'm the new Commissioner, so I wasn't around for a lot of what happened before so I can't say I have a lot of context here, but I do appreciate in general when residents come forward with ideas and passions that they care about, so I do want to say thank you to Mr. Bochenkov for bring that forward.

Vice-Chairman Claffey: I will open this discussion to the public, and we will ask anyone who is on the phone or if anyone in public wants to speak in favor. This first open to the public for discussion is for people who are in favor of the petition 05-22 in front of us now.

Elena Carrana, 41 Cambridge Drive: I am in favor, and this proposed amendment was written because we, the residents of Culver Street felt that we haven't been heard and you guys don't pay attention to us. If we felt that you were on our side, we will save you time so that is how it started. So I'm, I agree with everything that Igor said, because using that location, with access to the Berlin Turnpike, it would benefit our neighborhood. I agree with the height of the buildings because in your POCD, there is a chapter about taking care of immediate character, and all of the Commissioners signed this plan, the POCD and it said that Newington appears and feels like a small community and should continue to do those things that preserve, enhance community character. Also, it says Newington should be make sure that the POCD is implemented. All of you signed it. On the same page, where the public expressed what is the most important for the community, number one is open space, number two is traffic, and only number eleven is residential development. Also, I'm grateful that Mr. Pane stepped out from running this meeting, I understand that he is upset about what Igor spoke out to the media, but he just said what we actually think about this situation. He honestly expressed his opinion, and I would suggest that Mr. Pane step out from future, from running meetings.....

Vice-Chairman Claffey: Okay, I'm not going to let you bash a person that is on the Commission, that is not what we are here for in the public participation for or against. If you are finished I would like to move on. Thank you.

David Griffith, 283 Culver Street: I'm speaking in favor of the text amendments which are not only consistent with our plan of Conservation and Development but also enable the Commission with great care to manage special permit uses affecting residential neighborhoods, which is your charge under that plan,. In making changes in our town's zoning regulations special attention should be given to your fellow residents. You have the opportunity to improve our zoning regulations to protect the quality of life of Newington. In addition to that, I am wholeheartedly support what Igor has put forward. I want to make note, and I hadn't planned to talk about this, but I am very surprised in looking at the order of procedure for public hearings, that apparently we are doing something a little bit differently tonight, the procedures

that were provided to Igor and the rest of us was, there was a twenty minute presentation, and then two minutes in favor, but what I have listened to is at least as long a period in opposition.

Vice-Chairman Claffey: I'm going to stop you right there David, we have done this the same way, and we have done this at every Commission that I have overseen as Chairman this way.

David Griffith: That is not what the procedures say. Follow your procedures.

Vice-Chairman Claffey: Okay, I have followed them.

David Griffith: You haven't.

Jeff Zelek: I wish to speak in favor of the proposed text amendment submitted by Mr. Bochenkov. My understanding is that we are in this unpleasant situation because the zoning board previously approved the text amendment that was submitted on behalf of an out of state developer which potentially impact the residents in and around Culver Street. I have a diminished respect for any resident who acts on behalf of an out of state developer in a manner which causes harm to his neighbors. Regarding the housing density and housing building height concerns that the Commissioners have discussed this evening, I would ask you to refer to your town Plan of Conservation and Development. In that document I believe it is pretty clear that the desires of the public are made very clear that they do not want high density housing and these buildings of elevated heights. Mr. Bochenkov is not submitting this amendment on behalf of some developers outside of Newington. Mr. Bochenkov is submitting this, not for his own personal gain, as previous applicants have done, Mr. Bochenkov is submitting this amendment to reverse the harm that has been done by the Zoning Board to the residents of Newington. I have been a resident of this town for 30 years and during that period I have witnesses many champions come forward for the residents in situations such as the one before us. In the 1990's our then and now current Town manager was working with a developer on the CVS project on Main Street, with plans to demolish the tiny brick firehouse on the corner of Main and Garfield Street, to the benefit of the developer and CVS. A group of concerned citizens rose up and protested the destruction of that beautiful and historic firehouse, which is now a centerpiece in our Town. Those citizens were champions for the residents of Newington. Also, in the 1990'd the State of Connecticut proposed widening Main Street at the intersection of Cedar Street. Rev. Ken Brooks of the First Church of Christ Congregational spoke eloquently about the impact the project would have on his church, the loss of the town green and the impact on the center of our town as a whole. Rev. Brooks was another champion for the residents of Newington. Several years ago a new recreation center was proposed.....

Vice-Chairman Claffey: You're at two and a half minutes, so if you could kind of wrap it up?

Jeff Zelek: I'm sorry, but this is kind of an important time.....

Vice Chairman Claffey: I understand, but you are going off track, bringing up things that have nothing to do with the POCD.....

Jeff Zelek: First of all, to Mr. Bochenkov and the residents, Mr. Bochenkov, I'm very impressed with your exemplary behavior, the depth and honesty to which you presented yourself this evening is beyond reproach. Please continue with your solidarity and perseverance to right this wrong and the harm that has been done to you by the zoning board. Newington needs more champions like you, don't stop, continue, fight, and escalate this to the highest levels if necessary. To the Zoning Board, perhaps during

public hearing you can listen to the people and take up their cause. We are supposed to be a government of the people and by the people and for the people, I'm calling on you to do what is right and to approve the amendment on behalf of the residents of Newington. The text amendment was written as, as it's written may not be perfect, yes, there are some legitimate concerns in the details but you understand it's intent which is pure of heart, and you need to work to accommodate the desires of the residents. Thank you.

Frank Zocco, 30 Salem Drive: I'm not going to take my full two minutes because I just want to say I do support this document, this text amendment. I do have the same concerns that everyone that spoke before me, that spoke so well, and I don't feel the need to reiterate that, but I do support this amendment. I am concerned with high density housing there, increased crime rate, increased traffic on Culver, so again, keeping the original document by saying direct access to the Berlin Turnpike, restricting building height would really help solve that issue. Thank you very much for your time, and I appreciate all of your efforts that you have done for the town.

Michelle Griffith, 283 Culver Street: I as well do not feel the need to reiterate the former speakers but I am in favor of this text amendment, I suppose this is more of a question that could perhaps be answered. After listening very closely to all of this, I wondered, it was a statement by Renata about, that we have over 1,000 units being built, but if this text amendment was accepted, we would not be able to meet our affordable housing requirements? With over 1,000 being built, I don't get that, I would like that explained if possible. Thank you.

Vice-Chairman Claffey: Thank you, and when we're done, I will see if we can get that answer for you.

Matt Rossi, 1117 Franklin Circle: I am here in favor of this petition, this amendment. Increased height, increased population, increased number of apartments does not always mean that the taxes collected will cover the costs. We are not guaranteed how many students will be in there, but the projects that have already been accepted, ones that are coming up, they hit one half of the town for the most part. On the other side, you have a large number of housing, that are going to be happening that are going to cause even more. We have a problem trying to fix, and get Anna Reynolds up, what is going to happen when we have to increase. I think by lowering the number of stories the buildings have could aid in this, and I also believe if you have a four story building, with 250 apartments, you have to have at least 500 or more parking spots. Doesn't asphalt have the same negative affect on rain water and conservation as well as the buildings? Again, I am in favor of this amendment, and thank you for your time.

Gary Turco: Commissioners, if you wouldn't mind indulging me, I don't necessarily want to speak in favor of this amendment, or against it, but what I would like to ask you is, as the State Representative for Newington, I try to represent all of my constituents and I've heard from numerous ones that are very upset about this development and I'm not necessarily telling you what, how to do your job as Commissioners. I see you are doing your due diligence in reviewing everything carefully and Renata, our Town Planner definitely expressed some concerns with this particular amendment that need to be fixed, but what I will ask from you is, anything you can do to try to address these resident's concerns with this particular development around Cedar to insure that if it does go forward that it does try to address the issues with traffic and safety and other concerns that they have expressed tonight. I want to make sure that they feel like they are being listened to, that the town government is being responsive to them and that their concerns are seen as legitimate. So, I will continue to look at this issue carefully, listen further meetings with their proposals and suggestions, and that this be a very open and transparent process so that they will feel that Newington has their best interest. That's what I wanted to say Commissioners, I

think you for your volunteerism and I hope if there is a way I can assist with things, please let me know. Thank you.

Vice-Chairman Claffey: I don't see any other hands for the part of the meeting for anyone to speak in favor, at this time, I will go to opening it up to anyone from the public if they want to speak in opposition to the application 05-22.

Maria Pane, 638 Church Street: As a property owner, of PD property, this affects a lot of different people in town. I didn't realize that it also affects the Harvest Condominiums, to make them not be able to get mortgages, to make them non-conforming, this would affect Cobblestone, those are three stories. How can you do that to someone's house, I know this is like a vendetta the man has against my family, but whatever, this also affects housing, it affects everything around town. It's just not fair, it has nothing to do with taxes, with students, but as a property owner, we also have rights, and we also want to see what is best for Newington. It just seems like it has blown up to be either you are for Culver or you are a bad person, it's just not right, it's gotten to be just so polarizing that it is just, you are now involving say Harvest Village, those people, four hundred something thousand dollar condos will become unable to get a mortgage. How is that fair, how is that involved with Culver Street? It's very nice that you tie it to activism but you know, you really have to think about how it affects everyone else. That's about it.

Vice-Chairman Claffey: Is there anyone else wishing to speak in opposition to Petition 05-22? I want to follow the procedures to a T, which I have.

Renata Bertotti: I wanted to state we received some correspondence which I wanted to introduce into the record, and I shared this, and I shared this, the correspondence is rather lengthy, and I prefer that we not read this into the record, that we just attach it to the minutes as long as all the Commissioners read this, we did share this by e-mail, so there was a letter that was received from Mr. Mark Shipman, that we shared with all of the Commissioners, by e-mail, and then in the last maybe two days we received another letter from Atty. Menacinni, and that was shared by e-mail, and if you read this, I will attach it to minutes and we won't need to read this into the minutes.

Vice-Chairman Claffey: Let me just open that up to the Commissioners. I've read them, I've seen them, I just want to make sure, if you don't put your hand up, I'll assume that you read them, so if someone has a question for Renata, please put your hand up so we can hear what you have to say. If no one objects to including these as an attachment to the minutes, I would like to do that. We can move forward to the rebuttal, if the applicant wants to rebut anything that has been said.

Commissioner Woods: You asked to raise hands if we were against reading them into the minutes, and I didn't see anyone raising their hand. I am not in favor of reading them into the record, and I think just making them part of the record is fine.

Vice-Chairman Claffey: We can move to the rebuttal by the applicant, Mr. Bochenkov.

Igor Bochenkov: As far as rebuttal, I think there is nothing else for me to say in addition to what I already said, except for it appears to me the procedural misconduct of this Commission refocuses that it happens all of the time, and everything time we try to point it out, we get shut down for whatever reason. So, again we believe that the Commission has a very concise pro developer bias. I think I know why that is, but that would be a matter for another day, and all I have to say is, just in your mind, all Commissioners, that the text amendment can be taken all, or none, or one by one, so if there is something in the text amendment that you like, or dislike, feel free to vote for it or against it, but please consider it as they are. Thank you.

Vice-Chairman Claffey: Thank you Igor, and I will state one thing, that, and I will have it on the record, because you have brought it up multiple times about our misconduct, there are not been any procedural misconduct by this board, but I will have our Town Planner read that into the record, and say it, that we have followed the procedures like we do any other procedures before us. We have to go to our Town Planner in the procedural process to get what needs to be talked about. Renata, if you will address that and then I'm going to end it, and if anyone else wants to insult this board, please don't do it tonight, because it's out of context, it's out of line, and everyone can have their feelings, but we have been very concise on how we have done this.

Renata Bertotti: No, honestly I don't want to discuss procedures at all, but I will say, because we are discussing tonight the amendment to the zoning regulations, so again, I will advise you what to do with that, these are important decisions, please, you must disregard anything, any reference to any pending application, any pending development, any concerns with any specific proposals, or concerns with regards to traffic, relevant to pending applications, so please just make sure that when you are thinking about this proposal you are clear on what is happening tonight, so zoning regulation amendments are about hiring outside consultants for the PD Zone, as they pertain to all of the special permit applications in the PD Zone, we are talking about direct site access to the Berlin Turnpike, and the streets that connect to the Berlin Turnpike, requiring buildings to go from four stories to two stories, and requiring traffic analysis.

Vice-Chairman Claffey: So with that said Renata, I just want to make sure I'm procedurally following it, and after the rebuttal by the applicant, I have to ask, is there any rebuttal by the public that spoke to rebut anything that our applicant stated.

Commissioner Woods: Two members of the public spoke tonight and said that we did not follow the procedures, I'm assuming that referenced Renata's report, and that follows our procedures. We open a public hearing to the applicant, and typically that is followed by a staff report, and for this particular application the staff report is not in align with the applicant, that is the only difference. Other than that, I thought you did a good job, and as always, followed the procedures as laid out by this Commission, and I applaud you for that. The only thing I would like to address is a comment and question rolled into one, and it would go to the Planner. There have been a couple of times that I heard tonight that the original writers of our document meaning our Planning and Zoning regulations, I believe I have served on this board now going on seven years, and have been involved in town for almost 25 years, serving in one capacity or another serving as a volunteer, and specifically to our zoning regulations, they are evolving, and ever evolving, so there is no document that has stood hard and true, and language, it is all open to change as the town changes. We change with it. I think this Commission has done a really good job over the last couple of years, and I'm actually quite proud to serve on it. Thank you.

Commissioner Haggarty: At the risk of beating a dead horse here, I have a question to the Planner, these zoning text amendments, are generally speaking for the town. I believe the answer to that is yes, generally speaking for the town and not for any specific application, if that is correct? These are for all of the PD zones, right? This is not for any specific application?

Renata Bertotti: Yes, absolutely. This cannot apply, this applies to the entire PD Zone, and as a Commission when you are thinking about any zoning regulation amendment, zoning regulations amendments are not intended to be a variance application or an application for a site development proposal or site development plan, they are intended to apply to the entire district. So you are making rules for half the town.

Commissioner Haggerty: Okay, I just wanted to be crystal clear on that, and the follow up on that, if we were to accept these amendments as written, it does not affect the Culver Street development in any way, is that true?

Renata Bertotti: That is true, yes.

Vice-Chairman Claffey: If there is no objection, can we have a motion to close the public hearing petition 05-22 and move it to Old Business for action tonight.

Commissioner Woods moved to close Petition 05-22 and move it to Old Business for possible action this evening. The motion was seconded by Commissioner Haggerty. After a roll call vote, the motion passed unanimously with seven voting YEA.

Chairman Pane returned to the table, and Commissioner Gill returned to alternate status.

- B. Petition 09-22: Special Permit (Sec. 3.15.3) to allow a restaurant in the B-BT zone at 85 Kitts Lane, Applicant, Contact and Owner, Dale Hume-Remai.

Chairman Pane: Is the applicant available?

John Gale: I'm the attorney representing the applicant, and the applicant is here.

Chairman Pane: Very good. If you could go into a brief discussion of what is going on?

John Gale: I hope to take far less time, and be far less controversial than item one on your agenda. I'm an attorney in Hartford, and I'm here tonight representing Dale Hume-Remai. Ms. Remai and her late husband Dr. Remai have been clients of mine for many years, and they have been business owners in Newington for many, many years. They started back in 2008, purchasing property on Willard Avenue and ultimately opened an adult day care facility there, and they, Ms. Remai now, her husband has passed away, has also operated Dilly's café on Market Square. Most recently Ms. Remai has had the opportunity to purchase the former VFW building at 85 Kitts Lane and tonight before you is her proposal for what she plans to do, having purchased that building. It is fairly straight forward, there are two proposed uses, a day care facility for a portion of the building, 1600 square feet I believe and the balance of the building would be the café, Dilly's café which would now move over to Kitts Lane.

The adult day care operation is intended to teach life skills to young adults that have disabilities, and there may be some ability for a symbiotic relationship that is somewhat of a goal, to have some sort of a symbiotic relationship between the day care and the café, but that said, they will be free standing and independent on their own. Both of the business operations are intended to be Monday through Friday, daytime hours, nine to four p.m. The site has an amazing amount of parking so that should not present any problems. In that regard, as we have seen with Covid, it has become, with Covid it became necessary for restaurants to move outside, but I think the silver lining in that cloud is that people really enjoyed dining outside, and so this appears to be a change that is probably going to become permanent with many of our dining facilities and Dilly's will be no different, so they are actually proposing a potential for an outside dining patio as well. So I'm hoping that it is pretty straight forward, as I mentioned Mrs. Remai is here, if you have specific questions for her, but I'm happy to answer any questions on her behalf. So that's it, thank you very much.

Chairman Pane: Thank you very much, we'll go to the Town Planner if you would like to give us a staff report?

Erik Hinckley: I can do that. As Attorney Gale said, this is going to be a twofold operation. They are here before you today for the café, which is going to be approximately 320 square feet as shown there. They will have ample parking that is already provided on site, most of the business for the café is more than likely take-out. They do have some seating indoors, and they also show a possible future outdoor dining area which, outdoor music is not part of it, just to make that clear at this point. As the Attorney pointed out, this is a Monday through Friday type of operation, nine to four. It meets the parking regulations, the parking requirement for the mixed use, I think it is a very good fit for a underutilized portion of the Berlin Turnpike business zone in that area. I think this is something that would be welcome in that area, and would be utilized.

Chairman Pane: Well said Erik, thank you very much, I agree with you. Do the Commissioners have any questions for the town planner or the applicant?

Commissioner Woods: I see that café has 320 square feet, but are we not counting the kitchen area and the bathrooms in the square footage, and the hallway, that doesn't get counted? I'm just trying to figure out.....

Chairman Pane: For the parking count, they only count the dining area, I believe that is correct, right Erik?

Erik Hinckley: Yes, the dining area open to the public.

Commissioner Woods: Okay, and what is the space being utilized for, I guess it would be to the south of the dining area,

Chairman Pane: The Adult Day Care.

Commissioner Woods: No not the day care, the open space there.

Erik Hinckley: I'm unclear on that, they didn't show it on the plan, so I don't know if Dale has any comment on that? Attorney Gale, do you know?

Attorney Gale: I do not know if that represents a foyer, or entry to the adult day care. Mrs. Rimai, if you are able to answer?

Commissioner Claffey: That dotted line is a exit calculation dot that for the distance to those exits, that is what that dotted line is. It shows within a 75 foot, it is probably something to do with the Fire Marshal, in a sprinkled building.

Chairman Pane: But I think they were wondering what that space was going to be used for, right there.

Commissioner Woods: It doesn't show as part of the café.

Commissioner Claffey: No, but if you look at the dotted line, it's like they take a point, the farthest point and they center it off the exit from things, and it gives them like a 75 foot length.

Mrs. Hume-Rimai: It's a portion of the day care, so what you are looking at is a portion of the day care, the day care actually comes from here, and goes all the way over.

Chairman Pane: Thank you for clearing that up. Are there any other questions? We'll go to the public, anyone wishing to speak in favor of this application?

Mitch Page, 46 Oliver Street: I have a small business at 39 Market Square and I've had the pleasure to know the owner and her family, the owners of Dilly's for a few years, and have enjoyed their wonderful foods and the wonderful way that they run their business and I'm calling in in full support of this move to Kitts Lane. I think it's good for Newington, I think it would be a great opportunity, if you haven't eaten there, I encourage you to, they make some great food, and I think it's a win-win, so that's all I wanted to say, and I appreciate your efforts on this project, and I look forward to it being successful. Thank you.

Chairman Pane: Anybody else wishing to speak in favor of this application? Anybody wishing in opposition? Attorney Gale, do you have anything else that you would like to add?

John Gale: No, nothing else for our part, thank you.

Chairman Pane: If there is no objection, I'll entertain a motion to close Petition 09-22 and move it to Old Business.

Commissioner Trister moved to close Petition 09-22 and move it to Old Business. The motion was seconded by Commissioner Claffey. After a roll call vote, the motion passed unanimously with seven voting YEA.

I. APPROVAL OF MINUTES

Commuissioner Trister: My last name is spelled incorrectly. It's, my first name and my last name, it's, the first name should be spelled J-o-n-a-t-h-a-n, and the last name should be spelled, T-r-i-s-t-e-r.

Commissioner Woods moved to accept the minutes of the February 23, 2022 meeting. The motion was seconded by Commissioner Haggarty. The vote was unanimously in favor of the motion, with seven voting YEA.

II. NEW BUSINESS

A. Petition 14-22: Site Plan Modification at 187 Costello Road, Applicant and Owner; 187 Costello Road, LLC., Contact James P. Cassidy, P.E.

Jim Cassidy: For the record, my name is Jim Cassidy, professional engineer and principal in the firm of Hallisey, Pearson and Cassidy located at 630 Main Street, Cromwell. I'm here tonight representing 187 Costello LLC, and what we are here for is requesting a modification to the site plan that was approved for the development of the property located at 187 Costello Road. We were before you in May of 2021 for the approval of the contractors building and storage yard, and since which time the development has occurred, the building has been installed, the parking lot has been paved and the storage area has been installed also. As part of that approval, we had agreed to install a buffer along Costello Road. That buffer consisted of 23 arborvitae planted along the edge, say the westerly edge or the front edge of the gravel storage area, almost across the entire frontage. Since this building has been constructed and gone for a c.o. we have been having a situation with petty crimes. To date, there has been a generator stolen off

site and there have been a few instances where there have been catalytic converters cut out of the vehicles that are on the site. For security reasons, we are asking the Commission to consider modifying this site plan to eliminate that buffer edge row that we had proposed along the front of the project. In addition, I had originally proposed an island in the center of the parking lot, that has been kind of problematic for maintenance for snow plowing and we are also looking to possibly eliminate the one island that has a red cedar proposed to be planted in it. We could put the landscaped island more down toward the front, it was not a good idea in hindsight to put it where we put it.

So we would like the Commission, this is a copy of the landscape plan that was submitted as part of the application, to the left is Costello Road, the rectangle is the new contractor's building that was installed, and the gray area is the parking area and access drive to the building. On the north are the parking spaces, the area I was referring, the dotted area to the bottom is the gravel storage area, along the frontage we have two retention basins, the property graded basically from the right or the east side, in a westerly direction to the detention basins. Along the upper edge of the detention basins, or along the edge of the gravel storage area, we have proposed to put 17 arborvitae here, at a height of about six feet in additional seven and will create a solid barrier to the, and any vehicles that are on site, as I mentioned before, we have had a couple instances of petty crimes at this point, minor things, generator and some catalytic converters stolen out of vehicles, we're trying to, for safety reasons, open it up.

In addition to what I originally proposed, the landscaped island here in the center of the parking area, it is difficult for the maintenance of the parking lot. We are also asking to possibly eliminate that landscape island. We're hoping that the Commission will consider this for safety reasons and I will be happy to answer any questions that you may have.

Chairman Pane: Thank you.

Commissioner Haggerty: Are these events documented in any way, are they on file or documented through the police department?

Jim Cassidy: There was a police report filed on the generator. The catalytic converters, there was not a police report on those. I think if you look back I think it was November of last year when the police report was filed. The generator was chained, the chain was cut and taken.

Chairman Pane: At this time, let's go to our town Planner or Erik for a report.

Erik Hinckley: I can give you a report. This was approved prior by the Commission to satisfy the landscape portion of the site plan requirement, eliminating that would put in violation of our regulations of the landscaping requirement. There are other surrounding properties where these were also approved, same type of thing on the property to the north which was also approved by you shortly after you approved this. At this point, we don't support the modification to completely eliminate the buffer.

Chairman Pane: Any Commissioners have any questions?

Commissioner Claffey: I'm not, I have a question for the applicant. Is there a way, I view this building kind of as I view the Firestone on the Berlin Turnpike, and they have a slight difference in the elevation of the parking lot to the Berlin Turnpike view, and they planted some, I think there were some box holly, or something. Is there another plant material that we can have planted that with proper trimming stays at a two or three foot height to give the buffer the greenery, and secondly instead of eliminating the island, is there a way to take that island close to Costello Road and offset it with the last two parking spaces and plant a tree there, just so that, I think it is a little odd to come back before us and say, take all the greenery away. My option is maybe a smaller plant material and move the island closer to Costello Road,

and that island becomes the end curve possibly, with a planting there. It could be a different tree, but something.

Jim Cassidy: Unfortunately Mr. Vassello who is a member of 187 Costello Real Estate, he was here, but he had to leave, we did talk about it and what small targets we could consider. What we are trying to do is to keep the lower level open so you can see through, for security purposes, and not have a solid hedge row. One idea we talked about was instead of putting a hedge row, if we were to do canopy trees along the front. One of the things that we looked at that seemed appropriate for that area is that we plant a London pine tree, which can grow up to 75 feet high, and has a spread of about 60 feet. So, we have about 160 feet of frontage here, so it seems if we were to do something, we could have street trees along the front. It seemed in the area where we have the 17 if we were to plant two in here, and then as you had mentioned Commissioner Claffey, we can move the island down here, and plant another one here, we could have three street trees across the front. Can't put them any closer to the road, because we do have the detention basin here, we could put them along the edge of the parking lot. That is something that he would be agreeable to.

Commissioner Woods: I was going to suggest that they swap out the arborvitae for inkberry which can be maintained somewhere around three feet high. It doesn't sound like the applicant is willing to do that, but I don't know if I want to give up that. I think that is a pretty good compromise, if they eliminate the island in the center, that's not a big deal to me, I think they could put another tree out towards the retention area they could get one in the corner, but I think if they went in with some lower shrubs, whether they are inkberry or another type like that, and then security cameras, I think that will solve their problem.

Chairman Pane: Any other questions? I think if I'm not mistaken, the island that is on the parking lot is one of our requirements for green space within the parking lot, so by moving it to the end, we don't meet the requirement. Maybe Renata, you could fill me in on whether that is accurate or not.

Renata Bertotti: I will have Erik look at it.

Chairman Pane: I think while you are looking that up Erik, I think Commissioner Woods and Vice-Chairman Claffey have a good idea. Maybe coming back and proposing some lower landscaping and some different plants could achieve what you are trying to achieve by not having a total barrier there.

Renata Bertotti: Ultimately, what I am understanding is that the Commission, and correct me if I'm wrong, the Commission would like the plan revised to show a lower level plant along the front buffer and then we can look whether or not this island is absolutely necessary to require for our parking requirements or not. If there is a provision, but if there is no one then, there may not be a way around it.

Jim Cassidy: Thanks to electronics, I did get a confirmation from the owner that he is okay with going the lower hedge route, inkberry or boxwoods, whatever the Commission prefers, he would be agreeable to that.

Chairman Pane: Okay.

Commissioner Claffey: I have a question for Renata and the applicant, if they are willing to have some research done on that island, but is there another, I know this was brought up, I think Chick-Fil-A, where they had that island put in the middle of the parking lot and they removed trees because people drive over them, and they put some grass, and then they change it back, and I'm looking at the plan here and I don't know what the distance, it says 25 foot stone at the center, I mean, is that the swale between the

properties that is bringing the water off the driveway or parking area down into the retention. You can't plant anything in there, I've seen some like seagrass near the top so that people see there is some sort of barrier near the road. It's just a thought.

Jim Cassidy: The owner would like to work with the staff in researching the requirements for the island landscaping.

Chairman Pane: I think if the applicant is agreeable to this, if you would work with the staff and come back and proposed some lower plantings in that front area, to us, at the next meeting, I think that would be the best choice. Is that all right with all of the Commission members?

Commissioner Lenares: The applicant had suggested another alternative instead of the arborvitae as opposed to the ones we were talking about earlier, but the canopy ones. Would that be okay with staff or the greenery aspect of the proposal, just to give them another option in terms of what to plant there?

Chairman Pane: I think the staff will work with them to either propose some, a few street trees or a combination of street trees along with some lower plantings, and then they will look into that island, whether or not it is required.

Commissioner Lenares: The island is fine, but it sounded like the petitioner was trying to avoid anything on the ground at all to block the viewing of the buildings, so if they went with those other trees that were canopy trees, also providing some greenery, I don't know if that would be better for them or not.

Chairman Pane: I think maybe the street trees with a combination of some lower plants, the way that the arborvitae are planted here, they are in a row as a hedge, at six feet tall, and they are going to grow a foot or more a year it becomes blocking the property, so I can understand that so I have no problem with them coming back.

Renata Bertotti: Mr. Chair, if I may just interject, first of all, my understanding was that the applicant already agreed to plant inkberry and boxwoods and that what was kind of desired by somebody on the board who kind of understood probably better than anyone else on the staff what would be appropriate, so my inclination would be to go on with that. My second point is that your upcoming agendas are really not looking good. This is one of those minor things, if we have an applicant who has agreed to plant something that you already have agreed on, and we can look, perhaps this is one of the things that we could approve administratively, without them having to come to you. So if we can establish that tonight, and then move this off so it is not clogging your agenda and they do not have to sit in the room for like three hours.

Chairman Pane: Absolutely, I completely understand. I would go back to Commissioner Woods, could you just state on the record again what you were suggesting for plantings there?

Commissioner Woods: It's a compact inkberry they could use, or they could use boxwoods. Inkberry is probably just a little more durable than the boxwood, but whatever the applicant wants I'm fine with. It will still be a green barrier but it is maintainable and at a very low height.

Chairman Pane: Thank you. Are all of the Commissioners satisfied with that this is such a minor thing that this could be approved administratively and we will have staff work with the applicant and have this taken care of?

Commissioner Claffey: I'm in agreement.

Commissioner Lenares: Yes, this is a good example of things that should be handled administratively.

Commissioners: Agree

Chairman Pane: If everyone is in agreement, staff will work with the applicant to get this approved administratively.

Jim Cassidy: One more quick thing, the islands, are we working with staff on that too?

Chairman Pane: Yes.

Erik Hinckley: If you look at Section 6.1.3.A, that does talk about the interior landscaping of the parking lot.

Jim Cassidy: It will be more beneficial to have that island moved and I'd like to look into that regulation a little more to see if there are any other provisions to allow us to do something else there.

Chairman Pane: Very good. Thank you very much.

- B. Petition 16-22: Change of Use and site plan modifications Section 5.3.I to allow a dining cluster and parking incentives in the TOD Zone at 12 Fenn Road. Applicant and Owner, Fenn Road Associates, LLC, Contact Mark S. Shipman

Mark Shipman: The firm of Shipman, Shaken and Schwibel, representing Fenn Road Associates, Mr. Hayes is here from Fenn Road Associates, and I also have with me Mr. Stephen Mitchell who is our traffic/parking expert. I'm going to try to not take a lot of your time. I have submitted a narrative in support of the site plan and change of use and I think it covers most of what we want to say. I don't want to do this by giving you my narrative with gestures, so I will try to just skim through it. We think that this change in use is appropriate for the TOD District. The TOD District encourages cluster dining and that is just what we are trying to do with this. The location will serve the adjoining hotel which has no sit food service, it will serve foot traffic and bicycles from Central Connecticut State University and with the pending application should you approve it, it will be within walking distance of the proposed apartment complex on the National Welding parcel, and definitely within walking distance of the bus terminal. All of those things facilitate for what we are asking, that is a reduction in the parking requirement to permit this property to maintain the 15 parking spaces that it has. We believe based upon the types of uses that are going to be there, which are the types of uses you should be encouraging at that location, more of the in and out than the sit down with white tablecloths and that the Plan of Conservation and Development and your zoning ordinances encourage incentives for parking in this district. You have a report from Mr. Mitchell who is here. I don't think it is necessary to go into detail, but he is here. I assume that you have seen it and read it and if you have he is here to answer any questions that you may have. We have also provided for the possibility that the Town may wish us to have additional spaces and shown in red on the plan are spaces that could be utilized if necessary. We don't believe they are necessary and we don't believe they will enhance the use of this premises. The incentives, particularly for dining clusters, and a dining cluster, if you think about it, we put four restaurants, or three restaurants or five restaurants and maintain the twenty cars per thousand square feet, it would take many acres. It would make a development of this type of restaurant in a series or a cluster almost impossible. The traffic report uses a feet method rather than a square foot method to show

you that the uses that are proposed will not generate the kind of parking requirements that your ordinance has for normal restaurants. There is a definite distinction between this kind of restaurants and say Bertucci's on the Berlin Turnpike, with a lot of seats. This is also likely to be in and out, very transit and it suits the uses for the site. There is one drive through which has already been approved, none of the other restaurants will have that, and the square footage in each when you get to computing it, at approximately 45 percent public space for the units, is more in the area of six or seven hundred square feet, which is unlikely to generate much table space. All in all, I don't want to take more of your time, but the applicant and Mr. Mitchell are here to answer your questions. Other than our request to maintain the site as it is, there are no other changes to the physical site plan. If you have any questions we would be happy to answer.

Chairman Pane: Very good. I'm very pleased that we are filling up the whole building, and I think as you referenced the TOD area, all of these restaurants are very suitable for that area. At this time, I'm going to go to the Planner for a report.

Renata Bertotti: A couple of things that I want to point out, first of all, this application, I want you to think in terms of TOD, and TOD is intended to be an area that is accessible to pedestrians and predominately meant for pedestrian access, a friendly kind of area, so this is a place that was approved originally for sort of an uncategorized retail/service/restaurant and it turns out that they will be renting it in the future to just a combination of a bunch of restaurants which is why they are coming for this dining cluster. The way our regulations are set, the parking requirements for restaurants are higher than they are for the retail, general service area which is why they are now seeking the TOD incentives. That being said however, this can convert later, you know, the tenants can change, so this can go to something else in the future. So with that in mind, the next point that I want to make is, when you are thinking about that, also think about how parking, particularly in this kind of situation is really a management matter for the property owner. The property owner has invested interest in managing its own parking and its own tenancy, so they carefully manage who they lease their spaces to, and they keep in mind their parking as well. So they submitted this plan, right now, they provide sufficient amount of parking, I have no hesitation to believe that in the future they will not be able to provide sufficient parking for future uses as well. Again, it's a management situation, they can provide additional parking out of all the spaces that are provided on this map, we do have some concern with the six spaces that Erik is showing on your screen, because they are to be accessed from the drive through lane, and it, if the drive through lane is occupied with vehicles like how do you get out of that, so that is really not a good location. I don't think those spaces are feasible to be calculated, but even still, I believe with or without those six spaces they can function as a site well enough that I do not have any concerns with this proposal at all.

This will be a two part vote, so first you will be asked to make a finding of eligibility for the TOD incentives and the TOD incentives will be relevant as parking, so that will be your first motion, and first vote, and then you second action tonight will be then to approve the change of use site plan with modifications. So, this will come in like a two part action.

Chairman Pane: Thank you. Are there any questions of Renata from the Commission members? If there is nothing, I'll entertain a motion to move Petition 16-22 to Old Business for action.

Commissioner Woods moved to move Petition 16-22 To Old Business for action. The motion was seconded by Commissioner Havens. The vote was unanimously in favor of the motion, with seven voting YEA.

III. OLD BUSINESS

- A. Petition 16-22: Change of Use and site plan modifications Section 5.3.9 to allow a dining cluster and parking incentives in the TOD Zone at 12 Fenn Road. Applicant and Owner, Fenn Road Associates, LLC, Contact Mark S. Shipman

APPROVE:

Commissioner Lenares moved to approve parking incentives at 12 Fenn Road.

REASON FOR APPROVAL

The Approval is consistent with the requested parking incentives in Section 3.19.A.4 of the regulations.

The motion was seconded by Commissioner Woods. After a roll call vote, the motion passed unanimously with seven voting YEA.

Petition 16-22: Change of Use and site plan modifications Section 5.3.9 to allow a dining cluster and parking incentives in the TOD Zone at 12 Fenn Road. Applicant and Owner, Fenn Road Associates, LLC, Contact Mark S. Shipman.

APPROVED:

Commissioner Havens moved to approve the change of use to a dining cluster, 12 Fenn Road.

REASON FOR THE APPROVAL

The proposal is consistent with Section 5.3 of the regulations.

The motion was seconded by Commissioner Trister. After a roll call vote, the motion passed unanimously with seven voting YEA.

- A. Petition 14-22: Site Plan Modification at 187 Costello Road, Applicant and Owner; 187 Costello Road, LLC., Contact James P. Cassidy, P.E.

Commissioner Claffey moved that Petition 14-22 and the owner work administratively with the town planning and zoning office. The motion was seconded by Commissioner Haggerty. The vote was unanimously in favor of the motion, with seven voting YEA.

- A. Petition 09-22 Special Permit (Sec. 3.15.3) to allow a restaurant in the B-BT zone at 85 Kitts Lane, Applicant, Contact and Owner, Dale Hume-Remai.

APPROVE:

Commissioner Haggerty moved to approve the special permit for a restaurant at 85 Kitts Lane.

REASON FOR THE APPROVAL:

As proposed this application meet the special permit requirements as in Section 5.2 of the regulations.

The motion was seconded by Commissioner Havens. After a roll call vote the motion passed unanimously with seven voting YEA.

Chairman Pane recused himself from the vote on Petition 05-22 and Commissioner Gill was seated in his place.

- B. Petition 05-22 Zoning Regulation Amendment (Sec. 3.19) to modify zoning regulations pertaining to residential buildings in the PD Zone regarding hiring of third-party consultants at applicant's expense, requiring a direct site access to Berlin Turnpike, requiring a traffic impact analysis and reducing building height to 2 (two) stories, applicant and contact, Igor Bochenkov.

DENY

Commissioner Haggerty moved to deny the regulation amendments.

REASON FOR THE DENIAL

The proposed regulation amendment 1. conflicts with several sections of the town Plan of conservation and Development specifically chapters nine and ten. 2. Conflict with the Town of Newington's affordable housing plan; 3. If adopted as proposed the regulation will create issues with non-conforming uses and structures and impose serious unnecessary and targeted hardships on the residential and other commercial uses in the PD Zone.

The motion was seconded by Commissioner Gill. After a roll call vote, the motion was denied with seven voting YEA.

Chairman Pane returned to the table, and Commissioner Gill returned to alternate status.

IV. PETITIONS FOR PUBLIC HEARING SCHEDULING

- A. Petition 10-22: Special Permit (Sec. 6.2.5) for a freestanding sign at 3333 Berlin Turnpike, Applicant HJG-PC Newington Investor, LLC. Owner: The Rocky River Realtor Co., Contact, Jamie Anderson.
- B. Petition 11-22: Special Permit (Sec. 6.2.5) for a freestanding sign at 3333 Berlin Turnpike, Applicant HJG-PC Newington Investor, LLC. Owner: The Rocky River Realtor Co., Contact, Jamie Anderson.
- C. Petition 12-22: Special Permit (Sec. 6.8) for an open space subdivision at 359 Church Street and 312 Tremont Street (Rear) Applicant and Owner: AA Denorfia Bldg. and Dev. LLC. Contact Alan Bongiovanni.
- D. Petition 13-22: Special Permit (Sec. 3.4.9) to allow interior lots at 359 Church Street and 321 Tremont Street (Rear) Applicant and Owner: AA Denorfia Bldg and Dev., LLC, Contact Alan Bongiovanni.

- E. Petition 15-22: Special Permit (Sec. 3.19.1 and 2.15.6) and associated site plan to allow a place of physical activity (Swin School) in the PD Zone at 77 and 93 Pane Road, Applicant, SBS Ralty, LLC., Owner: McBride Properties, Inc. Contact: Murtunjay B. Sabarad.

Renata Bertotti: There is, I believe some of these we have already scheduled so I believe I did present to you the schedule for the sign at 3333 Berlin Turnpike, they are proposing two free standing signs on each entrance, that is scheduled for hearing now.

We also scheduled already the subdivision at Church Street, so that has been discussed as well. The only thing that we haven't scheduled as of yet, is there is a proposal for a swim school and a gym at 77 and 93 Pane Road. That is the only item we have not scheduled so far.

V. TOWN PLANER REPORT

Renata Bertotti: Your future agenda is I think four pages as of right now. Coming up meetings are really long and a lot of items, between the Conservation Commission and the planning and zoning Commission, I do want the public to know about this stuff. There is a lot of stuff going on. Besides the gym there is a small application for replacement of the court at a condo complex on West Hill Road. The other thing that I wanted to report to you is today there was a virtual meeting so on February 16th, we, I don't know if you remember there was that Newington Junction zoning audit walk so that group, they held the walk and today there was a virtual part of that, so one thing that came up is that they are proposing a bill, and I'm going to e-mail this bill over to all of you tomorrow. It's House Bill number 5429 and it is a proposal to allow the housing developments with a minimum overall average of fifteen dwelling units per acre, within a half mile radius of any passenger rail commuter. In our case, two fastrack and rail stations. So, I think I am going to ask you to read this, it's not very long, actually the addition to the law is shown on page 5 of 6, and if you want me to comment on this, the public hearing is on Monday, so if you would like me to submit testimony on behalf of the Planning Commission for Newington, please let me know. Please let me know like by Friday so that I can write something up by Monday morning. I think that is all for tonight.

Chairman Pane: They are proposing 15 units per acre, is that what you are saying.

Renata Bertotti: So within a half mile radius of a transit stop they are proposing an average density of fifteen units. We would have to zone everything within that circle, so the way it works is, you make a circle that is a half mile radius, and then you calculate (inaudible) and then you can separate area that you would like to zone out for multi-family. Once you calculate density and then you can put that density in that area, so on the virtual part of the walk we talked about the industrial area that is where they are thinking about doing that, and now with Covid lessening down, we said, when I first started, one of the things that we were going to work on was Newington Junction project. If we were going to start working on it, people wanted to be part of that conversation, and they wanted it done in person, so once the work load kind of comes down a little, and I actually can manage this, and we are starting to look like we are going to be going in person, that's another thing we should probably talk about actually. We can designate that density and allocate it to those industrial areas that we are taking about. You can comment that fifteen acres is just too much.

Chairman Pane: Is that a lower density that we are allowing at the other TOD area?

Renata Bertotti: You have to think about everything. It is a lower density, a much lower density than I n our other TOD area, but you're not looking at the whole area where you have a larger section of the district that is essentially single family homes. You are not looking into re-zoning single family zoning

district, into multi-family so you have to take that circle, calculate the entire density, and then focus that density into a small section, so you would have like a kind of higher density, kind of the same that we have out there. I don't have the figures, but it would be higher than fifteen.

Chairman Pane: We are going to be going into hybrid meetings I think, probably starting in April?

Renata Bertotti: I think it is a decision for the, for us to decide. The Council is starting to do that in person. If the Commission would like to do that in person I need to know at least three weeks ahead of time for the legal ads. So, if you are thinking about April, I would like to know that now.

Chairman Pane: I'll open that up to the Commissioners about how they feel about going back in person. We can't do it for our next meeting because the legal notices have already gone out. It is possible that we could do it for the first meeting in April and what it would be is a hybrid meeting with you could still be on Zoom or you could be in person, but we need the majority of the people to be in person I think. We also offer, applicants can call in.

Commissioner Woods: I'm in favor of giving it a shot to be in person if at all possible.

Commissioner Claffey: In person, for those who want to attend. I agree.

Commissioner Haggerty: In person Mr. Chairman.

Chairman Pane: Any other comments? I take it the majority are in favor of going in person, so.....

Commissioner Havens: I agree with in person as well, but can we bring snacks?

Chairman Pane: I'm not sure we are allowed to eat in the new town hall. So Renata, I think you have your answer. If possible, if everything works out, either the first meeting in April, or the second meeting in April, I'll leave it up to you to coordinate everything.

VI. COMMUNICATIONS

CRCOG Letters

VII. PUBLIC PARTICIPATION (For items not listed on the agenda; speakers limited to two minutes.)

Rose Lyons, 46 Elton Drive: I think Renata is keeping an eye on my messages to Dana Havens asking how come you are not in person back at the town hall. I think it's great that you are going to go back. I think I'll just sit here in my house and watch, so if I come I will bring snacks. I do, on a serious note, ask that you check out the TV screens there when you are making a presentation. I hope that the public is going to be able to see what is up on those screens. Like the last time that we asked that they not be flat against the wall, I guess the way that the configuration is set up the screens are flat against the wall, and then there is one in the middle. I found it difficult last night to try and, read what was on those screens but then again, my eyesight is not the greatest, but maybe you gentlemen and the Town Planner can sit and just look and see if you would want to be sitting in the audience, and looking at something that you couldn't see For now, good night and be safe out there.

Gail Budrejko, 21 Isabelle Terr.: I was at the virtual presentation today on House Bill where zoning regulations are going to require within a ten minute walk or half mile radius of a TOD center, the change in the density per acre. And it didn't occur to me at the time, but Newington has more than one transit oriented development site, so when they were talking, they were talking about Berlin, Windsor, Meriden, whatever. Berlin has 27 square miles, and has one site, Windsor is 31 square miles, one site, Meriden is 24 square miles, and I think one site. Newington is 13 square miles and basically we are going to have three sites. That to me is basically to me putting zoning requirements on a substantial part of our town, the west side of town in particular and Newington is going to be more impacted than I think any other town in terms of size, in terms of visible impact and legislation, we are going to be more impacted than some of these other communities with TOD, simply because we are small and we have three sites, and I'm including Cedar Street to tell you the truth. So I'm just wondering when you are reviewing that legislation, I'm in favor, actually the walk that we had around Newington Junction was, a lot of my concerns were assuaged, and it was I think could be a very good thing, but if we are talking about expanding this to the two other sites, again I do think we are going to put ourselves under a regulation for a substantial part of the west side of town. If there could be, a comment in the legislation that says, you have to look at each town, the number of TOD sites impacted, and also the square miles of the town, so maybe we can participate and maybe be required to do one or two sites, but I think it is overlay regulated when we have three sites and a very small square miles.

Chairman Pane: I think we really on have two sites, we have a busway over on Fenn Road and we have a busway at Newington Junction, so in my opinion, we only have two. We have nothing on Cedar Street now and nothing in the near future, so until that happens, there is really no discussion on Cedar Street because nothing is being proposed over there. I think it's going to be very important on the Newington Junction that we get public input and I'm looking forward to getting that, but we have to provide some development over there for the Newington Junction area for the busway that is existing. I understand your comments, and we have to find the right mix to move forward.

VIII. REMARKS BY COMMISSIONERS

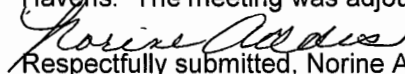
Commissioner Claffey: I just want to remind we did a lot of training earlier in the year and a lot of people like to get on Facebook or social media. As a Commission we have to be very aware of what we might be saying, or doing, or might be talking to in town. We do sit on this board, it's very transparent between the Commission, and if someone comes up and asks you something, they are going to take whatever you say, and it's going to be used against us someday, it's going to happen. Just be very leery of how we say, if someone comes up to me when they see me out and about, I say, call the Town Planner. Let Renata deal with you, with your concerns and she will bring them to us. I know it's a public area, but I just, I commend the group and I hope, since everyone is running to social media to know what is going on in our town, just be very leery of what we say. Thank you.

IX. CLOSING REMARKS BY THE CHAIRMAN

Chairman Pane: I want to thank everybody, thank the staff and I'll entertain a motion to adjourn.

X. ADJOURN

Commissioner Woods moved to adjourn the meeting. The motion was seconded by Commissioner Havens. The meeting was adjourned at 10:00 p.m.


Respectfully submitted, Norine Addis, Recording Secretary

Application #05-22, Zoning regulation amendment. Applicant Igor Bochenkov

Presentation at Town Plan and Zoning Commission public hearing on March 9, 2022.

My name is Igor Bochenkov and I reside at 20 Cobblestone.

I am thankful to testify today about a very important matter to me, my family, my neighbors, other residents, taxpayers, and voters of Newington as well as the Town officials of Newington. I don't do these kinds of presentations as often as Mr. Sweeney or Mr. Bongiovanni, so please bear with me for the next 20 minutes.

We take pride in living in this great town and want to see the Town flourish into the future. I do not think it is a coincidence that the Town has established a reputation that has been built over many years as a great place to raise a family and live, with good school systems, access to cultural points of interest, a high quality of life, etc.

It is with that in mind that I chose to apply for and promote this TEXT AMENDMENT so that we can take every step to preserve this attractive offering for ourselves as well as my daughter and others who we want to see benefit.

Before I get into the specifics of the actual Text Amendment, let me give you a little bit of context.

There are people who have lived in this town for over 80 years. People have established roots in this town and while there is a general desire to keep the status quo, I think we can all agree that we need to be flexible and allow change to occur; however, it should not be change for the sake of change. It should not be change that has as a singular purpose, the false need to increase the Grand List at all costs.

It should be good change that first and foremost protects our own citizens first, and when there is difficult choice to make, the gov't officials should be clear not only at re-election time, but at all times that residents have good memories, have an expectation that their interests will always come first. In the business field, we call that a fiduciary relationship. You have that same fiduciary responsibility to the residents. We should also be clear that in today's society, there is a constant pressure to increase profits, increase budgets, reduce shortfalls and deficits. However, the financial goals and motives don't come first and should not drive all municipal decisions. The Grand List is the End All, Be All List. It certainly is a factor in making decisions including Zoning Decisions. There are State and Federal requirements that must be always observed. Sometimes those requirements are not always obvious. For example, we understand that the Department of Housing is, or may have, provided grants on this proposed project. Along with those grants are certain provisions which must be met. In fact, we'd like to see those provisions and may make a FOIA request to do so. It would've been nice to get them put on the table in the full interest of transparency.

My motives are pure. My motives are simple: I want to preserve the quality of life in Newington to live, to benefit from the right of enjoyment of my real estate and the Town and to raise my family. The Town Officials have their own motives to listen to the people who put them in office and to make decisions according to the governing documents – the regulations and Town Charter – our Constitution if you will. What are the motives of the developer? I ask you this question now? In part because NOT ONCE have I heard it mentioned out loud; I submit to you the primary motive of this developer whose office is 499 miles away from this location is – TO MAKE MONEY!!! Let me add – on the surface, I do not fault them for wanting to make money. Any developer has a right to do so. However, I do have a right and we have a right to ask questions and determine if there is an alignment with the Town of Newington. And if there is....we have a right to provide input on how and when that project should move forward. This is why we are here today – to provide input on the best way forward. I have offered the Town a set of text amendments which I, and many others, feel would help the Town achieve its Charter, follow its regulation including the POCD and respect and honor the responsibility you have to each one of us.

Immediately before I get into Text amendment #1, I will share a quote from the current President of Ukraine, Vladimir Zelensky during his inaugural address in 2019: “I do not want my picture in your offices: The President is not an icon, an idol, or a portrait. Hang your kids’ photos instead and look at them each time you are making a decision”.

TEXT #1 combined with other amendment RE: CONSULTANTS

In a nutshell, we don’t know everything. In a nutshell, developer don’t know everything. That is what we hire experts. The Town of Newington historically hires experts; therefore, that is not the debate here. Let me ask the question – who gets to choose the experts? How many experts should be selected? Who should pay for the experts? In a given discipline, how many experts should be chosen and is it ever wise to hire more than one? Taking that last question first, I submit that the answer is probably YES. The TPZ is uniquely qualified to answer these questions. Can the process become better? YES. Allow the TPZ to be conservative in its approach to require that experts be hired, certainly on the more complex proposals. They have institutional knowledge over time, long standing relationships throughout the State and can greatly benefit from uncovering and addressing the nuances of each and every project. Lastly, where there are potential conflicts of interest, hire two experts that can balance the interests. In a project that is in the tens of millions of dollars, it seems to me that this is money well spent.

The Town Planner made a comment that this potentially was about a distrust of our professional capabilities. This statement is unwarranted. One body of people or persons can’t know everything. One committee will

usually not have the depth of knowledge about groundwater chemistry, the study of reptiles recently hired by a town called a Herpetologist, once hired to look at animal life on a proposed development or a more proximate to a town like Glastonbury is the study of snakes which is common discussion item in their building affairs. It is not personal; it simply makes common sense to hire experts so that decisions can be made with a greater degree of certainty. It's due diligence. It's common sense.

I will point out that the traffic expert in this case performed 3 separate studies. Why? Still not sure. But I can tell you that his testimony stated that DOT data from 2011 and 2016 was used. I can tell you that pandemic traffic patterns were used which does not make sense. I can tell you that there were mathematical errors on the spreadsheet he presented during a TPZ meeting. We need to do a better job and a more comprehensive job. This is too important to not hire enough experts or the right experts.

ACCESS TO BERLIN TURNPIKE

First, what is the Berlin Turnpike? As you know, it is 4-5 lane major thoroughfares that carries between 80,000 – 90,000 cars a day and once was the major thruway between Boston, Hartford, and New York. While it provides significant commercial choices from Walmart, Home Dept, McDonalds and may others, it also translates to congestion, delays, loud noise, pollution, and other headaches. The original authors of our Zoning regulations in their wisdom, wanted to protect the residents of Newington, I will remind us, the POCD speaks of the residents as one of the main tenets of the town. It flows that commercial interests should be connected to the Berlin Turnpike as a way to self-regulate...to protect quality of life and separate the commercial from the non-commercial.

Let's be straightforward for a moment: ask yourself right now, why do we believe the requirement to have a commercial interest be connected to the BT or a road that intersects it? In other words, what were they thinking? And why do we think it has been on the books for several decades and stood the test of time?

If you listen to the Town Planner, you may be led to believe it has something to do with Affordable Housing...Nonsense!! This has nothing to do with Affordable Housing. We are for affordable housing and affordable housing can be placed anywhere.

If you listen to the attorney for the developer, let me repeat “the attorney for the developer” – he would want you to believe, “and I quote” “that the original regulation was poorly written, unintelligible and which clearly frustrated residential development opportunities...”. Two points here: I do not think it is appropriate to insult the original authors of the regulation in Newington – do you? Do you think it is true the original authors were devious and attempting to restrict growth and development in general? Nonsense. Furthermore, if the attorney’s statements were true, how is it that we have grown to a town of over 30,000 residents? These comments are false and self-serving. Just ask yourself what is driving these comments – follow the money.

Therefore, I believe (as many of us believe) that we should not undermine exactly what the authors had intended. It has worked for decades, and I think it is a grave mistake to uproot it. You do not have to live with the consequences of uprooting it- however, we do. This morning, the World Bank stated “It matters a lot what our original statutes are” referring to original legislation of lending practice for the Bank. Well, I believe the same is true here. We should set a very high bar before waving our magic wand to change long-standing protections simply because you can. You are looking through the prism of “money” which is often short-lived. I am looking through the prism of my family, neighbors, a high quality of life – I invite you to my side of the isle – it is the right choice.

HEIGHT OF BUILDINGS

Let’s start with the basics. Newington is predominantly a residential town. Again, the attractiveness for most people is the quality of life they wish to pursue. The POCD states, as a primary goal, **the expansion of single-family homes**. Now you can choose to cherry-pick other POCD goals if you’d like, but this goal is longstanding and highlighted. When we get into height of buildings, we are clearly trying to preserve ‘quality of life’ drivers. One such driver is open space and less density. Limiting building height is a way to preserve what WE the residents want (not the developer wants). So now we have a situation where the zoning was changed – the developer got that. Now they want to press onward and force us to cave in on other pro-commercial metrics – it flies in the face of what we have had and what we want. The Town Manager has argued that a reduction in building height is environmental unfriendly! That is nonsense...the opposite is true. Ask any unbiased person this question. The developer states that a limit on building height would limit “modern housing”! That also is nonsense. What does building height have to do with a modern architecture. I can show you thousands of designs and architectural renderings that show that modern design is possible with 2-story building height. In fact, just look across the street at my development, Cobblestone, which is, in fact, 2 stories. The attorney says it makes it economically unfeasible! Is that true? No. perhaps it makes his profits not \$40 million, but 35 million! Are those the numbers? I don’t know – no one has told us. We have a right to know the profitability forecasts of a developer who is 499 miles away and wants to directly change my family’s quality of life!

SUMMARY

IN summary, the text amendments I drafted along with many others, make sense and are in alignment with the long-standing Town regulations. I would advocate strongly that my text amendments protect the residents, taxpayers, and voters of this town and that YOU have an absolute responsibility to **US** first and foremost, and while not to the exclusion of outsiders, should prioritize and recognize this priority each and every time. Our top real estate experts have told us as recent as last week, that real estate sales in this part of town are skyrocketing. I would ask you to be careful of unintended consequences. Finally, I would like to remind each of you that the Text Amendment proposals can be taken separately and should not be viewed as an "all or none" proposition. I thank you for your time and consideration.



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March 7, 2022

Delivered Via Email and Regular Mail

Renata Bertotti, AICP
Town Planner
Town of Newington
200 Garfield Street
Newington, CT 06111

RE: Application for Zoning Text Amendment
Petition #05-22
Amendments to Section 3.19

Ms. Bertotti:

I represent A.R. Building Company, Inc., a regional multifamily residential developer which is currently working within the Town of Newington. My client has obtained a copy of the above-referenced application to modify the Planned Development (PD) District Regulations and which is scheduled for a public hearing before the Newington Town Plan and Zoning Commission on March 9, 2022. My client would like to express its strong opposition to this application and urge the Commission to deny it in its entirety. I would ask that this letter be read into the record of the public hearing.

Section 3.19.5 - Outside Consultants

The applicant has proposed a new regulation dealing with outside consultants for Special Permit uses in PD Districts. Aside from the fact that the numbering of this regulation apparently conflicts with existing drive through restaurant provisions, there is no explanation provided as to why all Special Permit uses in PD Districts need this unique provision. The Zoning Regulations as a whole already require extensive reports and analyses to be submitted with all types of applications, all of which are already at the expense of the applicant. Further, Section 5.2.5 already empowers the Commission to request additional information from an applicant when reviewing any Special Permit application. The proposed new provision would potentially require duplicative reviews of professionally developed information, effectively doubling the cost of development in Newington. Plans and technical submissions to the Commission which are commissioned by applicants are already required to be prepared by licensed individuals who are bound by ethical standards and statutory requirements. The Commission is also staffed by highly educated and experienced professionals that are more than qualified to review these same documents. There is absolutely no need for additional layers of bureaucracy, assistance or

reviews. This provision is being proposed only to create additional obstacles and costs to the development process. The fact that “opposition to the application by town residents” is listed as a basis for requiring these additional consultants reveals the actual purpose of the new regulation, which is to have developers and property owners to effectively underwrite opposition efforts.

Section 3.19.2.B.1 – Location

This proposed change would reverse the text amendment deletion approved by the Commission on January 26, 2022 and require multifamily residential projects in PD Districts to once again be located with “direct access” to the Berlin Turnpike or to a street directly connecting to the Berlin Turnpike. Without rehashing the lengthy debate that was entertained prior to the Commission’s decision to delete this provision, the Commission should recognize that this proposal is merely an attempt to frustrate future residential development by trying to reinsert a regulation that was poorly written, unintelligible and which clearly frustrated residential development opportunities on dozens of properties throughout PD Districts across the community.

Section 3.19.2.B.5 – Height of Buildings

This proposed amendment would limit residential buildings in the PD District to only two stories of height. This height is less than the building height allowed for other uses in the PD Districts and ironically enough, less than even what is allowed in single-family residential zones (2 ½ stories). This type of restriction would dramatically limit the ability to develop modern multifamily housing opportunities, and would directly and adversely impact both housing affordability and diversity, both critical goals of the Plan of Conservation and Development. Even traditional townhouse style development exceeds two stories in height. Four stories should be maintained as the standard and that will continue to allow for flexibility and diversity in design options as well as smaller footprints and less overall site disturbance. Once again, this new proposal is targeted at making multifamily residential development economically infeasible in the PD District, which is the applicant’s obvious intent.

Section 3.19.2.C – Traffic Impact Analysis

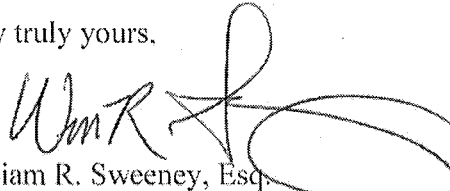
This proposed change would require any residential project of 15 or more units in a PD District to submit a traffic impact analysis. This change is completely unnecessary. Section 5.2.6 already allows the Commission to consider traffic impact as part of any Special Permit review. It is the applicant’s responsibility to present substantial evidence for the Commission’s consideration of this specified criteria. Furthermore, under Section 5.2.5, the Commission can request specific information, including a traffic impact analysis, if they deem it necessary. Again, this is a poorly drafted proposal that is duplicative and serves no purpose.

In conclusion, on behalf of my client, I would request that you deny this application with prejudice. The clear intent of the applicant is the obstruction and frustration of legitimate development opportunities currently available for residential building development in

Renata Bertotti, AICP
March 7, 2022
Page 3 of 3

Newington's PD Districts. If the Commission believes that certain amendments to the PD District Regulations are warranted, we would recommend that this be undertaken by the Commission itself and through a comprehensive public process that reviews the Zoning Regulations as a whole and encourages input from all relevant stakeholders. Thank you for your time and attention to this matter.

Very truly yours,


William R. Sweeney, Esq.



Shipman, Shaiken & Schwefel, LLC
ATTORNEYS AT LAW

Mark S. Shipman, Esq.
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Cell: (860) 869-5098
Email: mark@shipmanlawct.com

February 7, 2022

Renata Bertotti
Town Planner, Town of Newington SENT VIA EMAIL ONLY WITH READ RECEIPT
131 Cedar Street
Newington, CT 06111

Dear Ms. Bertotti;

We have been asked to comment on an Application for a Text Change, filed to amend the portions of the PD Zone. In connection therewith, we have drafted the attached Memorandum. Please provide this to the commission in connection with a Public Hearing on the Application.

Thank you.

Yours truly,

A handwritten signature in dark ink, appearing to read "Mark S. Shipman", with a large, stylized initial "M".

Mark S. Shipman

cc. Richard Hayes
Marc Kemp
Keith Chapman, Town Manager



Shipman, Shaiken & Schwefel, LLC
ATTORNEYS AT LAW

MEMORANDUM

From Mark S. Shipman
To: Renata Bertotti
cc. Richard Hayes, Marc Kemp, Keith Chapman, Town Manager
Date: February 7, 2022
Re: Application for Text Change

We have reviewed the Proposed Text Change offered for portions of Section 3.19 of the Regulations. We note that the Application is not in proper form, and the changes are not identified. Nonetheless, we have compared the Proposed Text with the original text and have the following observations and comments.

Proposed Amendment:

3.19.1

Outside Consultants

The Commission may require an applicant to pay for hiring one or more outside consultants to assist the staff and Commission in the technical review of an application.

1. Upon the filing of an application, the Commission shall make a determination whether one or more consultant(s) are needed to assist the Commission in its technical review of the application. Such consultant(s) may include, but shall not be limited to engineers, surveyors, soil scientists, traffic consultants and information technologists.

Prior to making a determination whether one or more consultants are needed, the Commission shall consider the following:

- a. The evidence and documentation submitted by the applicant in the record of the proceedings or is likely to be produced by the applicant requires the hiring of such consultant(s);
- b. Town staff requires assistance to perform the technical review;

c. Opposition to the application by town residents.

If outside consultants are required for the Commission's technical review, the Commission shall assess in its technical review the reasonable costs for such consultant(s) to the applicant. The Town Planner shall collect 150% of the consultant's estimated charges from the applicant. Any excess amount collected over the actual consultant costs shall be refunded to the applicant. The failure by the applicant to make this payment shall render the application incomplete and subject to denial.

THE COMMISSION IS NOT PREVENTED FROM REQUESTING AN APPLICANT TO PAY FOR EXPERTS TO CONSULT ON AN APPLICATION. MANDATING A REQUIREMENT TO CONSIDER IT IS UNECESSARY IN LIGHT OF THE AVAILABILITY OF ENGINEERING AND PLANNING STAFF AND THE TOWN ATTORNEY. EVEN WERE THE COMMISSION TO CONSIDER THIS PROPOSAL, THE ONLY CRITERIA SHOULD BE THE STAFF AND/OR THE COMMISSION EXPRESSING A NEED FOR ADDITIONAL EXPERTISE. WHETHER THE OPPOSING PUBLIC THINKS THE COMMISSION REQUIRES IT IS NOT GERMANE.

3.19.2B1

Location

No site location shall be approved unless it has direct access to the Berlin Turnpike.

THIS IS AN UNREASONABLE LIMITATION. IT IMPOSES A RESTRICTION THAT IS UNECESSARY. THE COMMISSION, IN ACTING ON A SPECIAL EXCEPTION/PERMIT UNDER 5.2 AND 5.3 HAS DISCRETION AS TO NEIGHBORHOOD, TRAFFIC, SUITABILITY OF THE LOCATION AND OTHER STANDARDS. THE CURRENT REGULATION IS FOR A LIMITED AREA. LIMITING THE PD ZONE FURTHER, WILL, BASICALLY ELIMINATE ALL AVAILABLE LAND.

3.19.2B5

Height of Buildings

No principal building shall exceed 2 stories, and no accessory building shall exceed a height of 15 feet.

SECTIONS 5.2 AND 5.3 OF THE REGULATIONS HAVE A COMPLETE SET OF STANDARDS FOR THE COMMISSION'S REVIEW. THESE INCLUDE THE CHARACTER OF THE NEIGHBORHOOD, SIZE AND TYPE OF BUILDING, TRAFFIC CIRCULATION AND SAFEGUARDS TO PROTECT NEIGHBORING PROPERTY. THE 4

STORY REFERENCE IN 3.19.2B5 IS A DISCRETIONARY LIMIT, NOT A MANDATED HEIGHT.

3.19.2C

A traffic impact analysis submitted by a recognized traffic engineer shall be required for any residential building containing fifteen (15) or more new residential dwelling units. The traffic analysis shall contain the information set forth in 3.19.3A.

THERE IS NO NEED FOR THE LANGUAGE. SECTIONS 5.2,6D AND 5.3.3. 2, ESSENTIALLY REQUIRE THE TRAFFIC ANALYSIS AND AN APPLICANT IS AT RISK FOR FAILURE TO PROVIDE ONE. THE TOWN ENGINEER IS PERFECTLY CAPABLE OF CRITIQUING IT.

IN SUMMARY, SECTION 3.19 ALLOWS RESIDENTIAL USE IN A VERY LIMITED AREA BY SPECIAL PERMIT. ALL OF THE PROTECTIONS THAT APPLICANT HAS SUGGESTED ARE ALREADY INCLUDED IN THE STANDARDS FOR REVIEW OF APPLICATIONS FOR SPECIAL PERMITS AND SITE PLANS.

SECTION 3.19B SETS FORTH A PREAMBLE WHICH CHARGES THE COMMISSION TO CONSIDER A MULTITUDE OF CONDITIONS, INCLUDING THOSE REQUIRED OF ALL SECIAL PERMITS. EVERYTHING THE APPLICANT PROPOSES IS REDUNDANT.